

REMARKS

The claims are 5, 7, 8, 10, 11, 13 and 14.

A typographical error has been corrected in claim 13. Support is evident from the disclosure at page 15, line 16 of the Substitute Specification.

The above amendment to claim 5 recites that the fermentation is conducted anaerobically responsive to the comment on last page of the Final Rejection dated March 22, 2007 which states that the claims are not limited to anaerobic culture because it is only recited in the preamble of the claims.

In the Final Rejection of March 22, 2007, claims 5, 7-8 and 10-14 were rejected under 35 U.S.C. 103(a) as being unpatentable over JP 58-98085 in view of JP 7-177879.

There is nothing in the combined reference teachings which would lead one of ordinary skill in the art to the present invention.

As pointed out in remarks of record, JP 58-98085 relates to a culture of aerobic microorganisms under aerobic conditions. There is no teaching or reason provided by this reference to apply it to the culture of anaerobic microorganisms under anaerobic conditions, as presently recited.

With regard to JP 7-177876, it relates to culture management of microorganisms essentially by correlating osmotic pressure of a culture liquid with other parameters.

It is not apparent why one of ordinary skill in the art would be led to combine the reference teachings or that such would arrive at the present invention.

The premise of the rejection i.e. that conditions for anaerobic and aerobic fermentation can be freely exchanged, is simply untenable as explained at pages 1 to 4 of the Substitute Specification.

As a final point, the feature of claim 12 has been inserted in claim 5 to emphasize the criticality of culture conditions in the present anaerobic formulation. This feature is also not disclosed or suggested by the cited references, alone or combined.

In sum, the rejection is based on reconstruction of the present invention from applicants' teachings and not the teachings of the cited references.

For the foregoing reasons, it is considered that the rejection on prior art is untenable and should be withdrawn.

No further issues remaining, allowance of this application is respectfully requested.

If the Examiner has any comments or proposals for expediting prosecution, please contact undersigned at the telephone number below.

Respectfully submitted,

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